

[Page 1]

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

ROCKLAND VENDING CORP.,

Plaintiff,

-against-

ROXANNE CREEN, sued in her individually
capacity; MARSHA F. RILEY, sued in her
individually capacity; STEWART KIDDER, sued
in his individually capacity,

Defendants.

101 East Post Road

White Plains, New York

November 6, 2007

10:15 A.M.

EXAMINATION BEFORE TRIAL of ROCKLAND
VENDING CORP. by KEN GALLAGHER held at the
above place and time, before a Notary Public
within and for the State of New York.

IRMA K. NAVARRO,

Reporter

1
2 APPEARANCES OF COUNSEL:
3
4 MICHAEL SUSSMAN, ESQ.
5 Attorney for Plaintiff
6 P.O. Box 1005
7 Goshen, New York 10924
8
9
10
11 STATE OF NEW YORK
12 OFFICE OF ATTORNEY GENERAL
13 ANDREW M. CUOMO
14 Attorney for Defendants
15 120 Broadway
16 New York, New York 10271-0332
17
18
19 BY: DANIEL SCHULZE, ESQ.
20
21
22 ALSO PRESENT:
23 ROXANNE CREEN
24 MICHAEL FREED
25

[Page 2]

1 GALLAGHER
2 KEN GALLAGHER,
3 having been first duly sworn
4 by Irma K. Navarro, a Notary
5 Public within and for the State
6 of New York, was examined and
7 testified as follows:
8
9 oOo
10 EXAMINATION CONDUCTED
11 BY MR. SCHULZE:
12 Q. State your name and address for
13 the record, please.
14 A. Ken Gallagher, 172 Watersedge,
15 Montgomery, New York 12549.
16 Q. Good morning, Mr. Gallagher.
17 A. Good morning.
18 Q. My name is Dan Charles. I'm from
19 the New York State Attorney General. I
20 represent the Defendants in this case. Do
21 you understand that?
22 A. Yes.
23 Q. You're represented by counsel
24 today?
25 A. Yes.

[Page 4]

1
2 IT IS HEREBY STIPULATED AND
3 AGREED, by and between the attorneys for the
4 respective parties herein, that the sealing
5 and filing of the within deposition be
6 waived.
7
8
9 IT IS FURTHER STIPULATED AND
10 AGREED that this deposition may be signed and
11 sworn to before any officer authorized to
12 administer an oath with the same force and
13 effect as if signed and sworn to before the
14 officer before whom said deposition is taken.
15
16
17 IT IS FURTHER STIPULATED AND
18 AGREED that all objections, except as to
19 form, are reserved to the time of trial.
20
21
22
23
24
25

[Page 3]

1 GALLAGHER
2 Q. Who is that?
3 A. Mr. Sussman.
4 Q. Mr. Freed is here with you as
5 well?
6 A. Yes.
7 Q. And Roxanne Creen, the Defendant
8 is here on our side. What did you do to
9 prepare for today's deposition?
10 A. I discussed it with Mr. Sussman.
11 Q. Did you also discuss it with
12 Mr. Freed?
13 A. Yes.
14 Q. Did you ever have a conversation
15 with Mr. Freed when Mr. Sussman wasn't
16 present about this?
17 A. No.
18 Q. Was Mr. Freed present when you
19 discussed your deposition with Mr. Sussman?
20 A. Yes.
21 Q. Did you discuss Mr. Freed's
22 testimony in the course of that meeting?
23 A. No.
24 Q. Were you aware that Mr. Freed had
25 been deposed in this case?

[Page 5]

[2] (Pages 2 to 5)

1 GALLAGHER
2 A. Not until recently, yes, as far as
3 today.
4 Q. When did you become aware of that?
5 A. I mean as far as -- what was that?
6 I didn't understand. I'm sorry.
7 Q. Did you understand that Mr. Freed
8 had been deposed?
9 A. No.
10 Q. Do you understand this is a
11 deposition?
12 A. Yes.
13 Q. Did you understand that Mr. Freed
14 went through the same process?
15 A. Not recently, today. I normally
16 don't have any conversation with Mr. Freed
17 because by the time I work and he's -- I
18 didn't know until today about last week that
19 he was deposed, yes.
20 Q. When did you meet with your
21 counsel?
22 A. Today.
23 Q. Had you met with your counsel
24 prior to today?
25 A. No.

[Page 6]

1 GALLAGHER
2 MR. SUSSMAN: Ever or just to
3 prepare for a deposition?
4 MR. SCHULZE: Ever.
5 A. Yes.
6 Q. How many times have you met with
7 your counsel?
8 A. Twice.
9 Q. Twice total?
10 A. Yes.
11 Q. When was the first time?
12 A. We had -- what happened -- we
13 discussed what happened.
14 Q. Don't tell me what you said. Just
15 tell me when you met.
16 A. Back in June.
17 Q. June of this year?
18 A. Yes.
19 Q. When did you decide to become a
20 Plaintiff in this case?
21 A. It's been all me since the
22 beginning.
23 MR. SUSSMAN: He means when did
24 you decide to join the lawsuit and be a party
25 to the lawsuit personally rather than just

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1 GALLAGHER
2 the lawsuit being about Rockland Vending.
3 A. From the beginning.
4 Q. When is the beginning?
5 A. Since it happened.
6 Q. What date?
7 A. Back in May when it happened.
8 Q. You wanted to sue someone since
9 back in May?
10 A. Yes.
11 Q. Who did you want to sue?
12 A. Them because -- the facility,
13 because they shouldn't have done that in the
14 beginning.
15 Q. Anybody else?
16 A. Do I want to go around suing
17 people, no.
18 Q. Are you on any medication today?
19 A. No.
20 Q. Is there any reason why you can't
21 give full and accurate testimony today?
22 A. Should be none.
23 Q. You're currently employed by
24 Rockland Vending; is that correct?
25 A. Yes.

[Page 8]

1 GALLAGHER
2 Q. How long have you been working for
3 Rockland Vending?
4 A. Slightly over a year.
5 Q. Is that a full-time job?
6 A. Yes.
7 Q. Slightly over a year. Can you
8 give me a starting date?
9 A. Back in June so it's been a year
10 and -- say 16 months.
11 Q. June of 2006 is when you started?
12 A. Yes.
13 Q. When you started what were your
14 duties?
15 A. Same duties I have now. Fill the
16 vending machines, service the vending
17 machines.
18 Q. You drive a truck?
19 A. Yes.
20 Q. Do you collect money from vending
21 machines?
22 A. Do I collect money from vending
23 machines, yes, to go to Mr. Freed.
24 Q. You have food stocks in your truck
25 that you replenish the machines with?

[Page 9]

[3] (Pages 6 to 9)

1 GALLAGHER
2 A. Yes.
3 Q. You go into correctional
4 facilities to do this?
5 A. Yes.
6 Q. What facilities are on your route?
7 A. I used to do Shawangunk and I do
8 Fishkill.
9 Q. In June of 2006 you did Shawangunk
10 and Fishkill; is that correct?
11 A. Yes.
12 Q. Any others?
13 A. That's it.
14 Q. Did you have any locations on your
15 route that weren't correctional facilities?
16 A. Yes.
17 Q. What are they?
18 MR. SUSSMAN: Hold on. You
19 mean now or then just so we are clear?
20 MR. SCHULZE: In June of 2006.
21 MR. SUSSMAN: When you started.
22 A. Yes, yes.
23 Q. What were the other locations?
24 A. One was a privately-owned
25 business.

[Page 10]

1 GALLAGHER
2 Q. What?
3 A. Fair Right.
4 Q. Where was that?
5 A. It's in -- it's in Walden.
6 MR. SUSSMAN: W-A-L-D-E-N.
7 Q. Anywhere else?
8 A. Valley Central which is a high
9 school on 17K.
10 Q. Anything else?
11 A. That was pretty much it for that
12 day I think.
13 Q. So you had five locations on your
14 route in June of 2006?
15 A. Yes.
16 Q. How long did it take to complete
17 your route?
18 A. I want to say like three o'clock.
19 Probably eight hours, nine hours.
20 Q. How many days did you work?
21 A. I worked five days a week.
22 Q. Which days?
23 A. Monday through Friday.
24 Q. At the start of May 2007, how many
25 locations were on your route?

[Page 11]

1 GALLAGHER
2 A. What day because it differs?
3 Q. How does it differ day by day?
4 A. Some days I do -- I did -- like
5 Shawangunk I did Monday, Wednesday and
6 Friday. Then Tuesday I would do Fishkill and
7 Thursday, too, so it would differ. It would
8 differ week to week. Sometimes there were
9 shorter weeks, sometimes there were longer
10 weeks.
11 Q. Okay. The start of May 2007, what
12 were your stops on Mondays?
13 A. (No response).
14 MR. SUSSMAN: In addition to
15 Shawangunk, what other stops you had on
16 Mondays.
17 A. Hudson Psychiatric Center. Then I
18 would go to Shawangunk. Then I would go to
19 Fair Right. Then I would go to Valley
20 Central.
21 Q. Was this the path you took on
22 Wednesdays and Fridays also?
23 A. Give or take, yes.
24 Q. What was your path on Tuesdays?
25 A. Tuesday would be Fishkill so I

[Page 12]

1 GALLAGHER
2 would go over to Fishkill first, then I would
3 do Newburgh Auction.
4 MR. SUSSMAN: Finish.
5 A. That would be pretty much the day.
6 Q. On a typical day over the period
7 January to May 2007, how long would you spend
8 at Shawangunk on a given day?
9 A. On a Monday, it would be in and
10 out. I should have spent 45 minutes.
11 Q. How about Wednesdays and Fridays?
12 A. Wednesday I would have cold food
13 so it would be a little longer.
14 Q. About how long?
15 A. An hour, an hour and 15 minutes.
16 Q. Fridays?
17 A. Fridays should be -- I would be in
18 and out. 45 minutes, something like that.
19 Q. What did you do at Shawangunk on
20 Mondays?
21 A. Mondays I collected the machines,
22 I serviced the machines.
23 Q. When you say collected and
24 serviced the machines, what do you mean?
25 A. I go in there, I inventory, I

[Page 13]

[4] (Pages 10 to 13)

1 GALLAGHER

2 collected as far as money wise and I
3 serviced. The way they broke it up, there's
4 different parts of Shawangunk that you did it
5 throughout the week. That's what you would
6 do.

7 Q. On Mondays, you did all the
8 machines in Shawangunk?

9 A. No.

10 Q. Which machines at Shawangunk did
11 you do on Mondays?

12 A. I would do the visitor room and
13 one or two of the machines in the employee
14 lounge.

15 Q. Which ones?

16 A. I want to say one was the cold
17 food and one was a glass front which is a
18 snack machine.

19 Q. Describe what you do for the
20 machines in the visiting room on Mondays?

21 A. You -- you get out of the truck,
22 load the cart with what I need, I sign the
23 book, go to Shawangunk, went on the path. By
24 the time you're done in the visiting room,
25 you go in there and you start over the

[Page 14]

1 GALLAGHER

2 Q. So it's possible to determine from
3 the meter reading how much had been sold but
4 you can't make that determination?

5 A. I can't make that determination.
6 It's not my job.

7 Q. But part of your job is take down
8 the reading when you collect the money; is
9 that correct?

10 A. Yes.

11 Q. You should wait until I finish the
12 question. I might not be asking what you
13 think I'm going to be asking.

14 A. Okay.

15 Q. What machines did you service on
16 Wednesdays at Shawangunk?

17 A. Visit room and the employee
18 lounge.

19 Q. You serviced all the machines in
20 the visiting room on Wednesday?

21 A. I was supposed to.

22 Q. Go ahead.

23 A. But after this incident, I didn't.

24 Q. We are just talking about before
25 this incident.

[Page 16]

1 GALLAGHER

2 machine, you inventory, collect and service
3 what they need. Let's say if they needed ten
4 chips, you put the chips in the machine or
5 whatever, you filled it up. Then you go on
6 to the next machine. It's, you know, on to
7 the next machine and so forth and so on.

8 Q. How about money in the machine?

9 A. What you did, you write down your
10 meter reading on a paper, take the meter
11 reading on this little slip, that slip goes
12 into the money bag. You put your money in
13 there. You zip it up and you're done with
14 that machine. Then you go on to the next one
15 and so on.

16 Q. You have a separate bag for each
17 machine?

18 A. Yes.

19 Q. When you take down the meter
20 reading, does that allow you to determine how
21 many items were sold?

22 A. When I took down the meter
23 reading, I take it back to the office, they
24 figure out how much they sold. I don't do
25 anything like that.

[Page 15]

1 GALLAGHER

2 A. Okay.

3 Q. In the employee lounge, did you
4 service all the machines in the employee
5 lounge on Wednesdays?

6 A. No, there's five machines in
7 there. I did three.

8 Q. Which three?

9 A. The cold food machine because that
10 was a deli thing. The glass front and
11 there's a soda machine.

12 Q. On Fridays, which machine did you
13 service at Shawangunk?

14 A. I would do all of them, I would
15 touch all of them. There was one when you
16 walked in the administration building,
17 trailer, whatever it was. I would do the
18 visiting room and I would do the break room.

19 Q. What is the break room?

20 A. Employee lounge, break room.

21 Q. Do you collect monies then from
22 all the machines in the visiting room on
23 Mondays, Wednesdays and Fridays?

24 A. Not on Fridays. Only Monday and
25 Wednesday. But it would be certain things.

[Page 17]

[5] (Pages 14 to 17)

1 GALLAGHER
2 They would have a breakdown by ticket.
3 Q. Did you have any difficulties with
4 anyone at the Fishkill Correctional Facility?
5 A. No, sir.
6 Q. Prior to May of 2007, did you have
7 any difficulties at the Shawangunk
8 Correctional Facility?
9 A. No, sir.
10 Q. What is your current route?
11 A. What was that?
12 Q. What is your current route?
13 A. I still do Fishkill. Mondays I do
14 Fair Right, Spence.
15 Q. What is Spence?
16 A. It's like a little engineering
17 business.
18 Q. Go on.
19 A. Valley Central, Ellenville High
20 School and Middle School and every two weeks
21 I do Orange County Airport.
22 Q. Are you aware that Rockland
23 Vending Corporation declared bankruptcy?
24 A. Yes.
25 Q. Does that affect your

[Page 18]

1 GALLAGHER
2 compensation?
3 A. Yes.
4 Q. How did it affect your
5 compensation?
6 A. When we lost Shawangunk that was a
7 big chunk of the money because I got paid on
8 commission so losing Shawangunk I lost that
9 commission on those machines.
10 Q. How did the bankruptcy affect your
11 income?
12 A. I have less product to put in the
13 machines and I would -- because my route got
14 smaller with being bankrupt because of losing
15 the prisons so I don't make as much money as
16 I normally did.
17 Q. You get paid a salary?
18 A. I get a salary and a commission.
19 Q. You get paid a salary then; is
20 that correct?
21 A. Yes.
22 Q. Has your salary changed in 2007 at
23 all?
24 A. Yes.
25 Q. How has it changed?

[Page 19]

1 GALLAGHER
2 A. It's dropped.
3 Q. When did it drop?
4 A. When we lost Shawangunk, I lost a
5 good chunk of money out of that.
6 Q. Your salary dropped?
7 A. My commission dropped. My salary
8 dropped, my commission dropped.
9 Q. Listen to the question. Has your
10 salary changed at all in 2007?
11 MR. SUSSMAN: Note my
12 objection.
13 A. No.
14 MR. SUSSMAN: Go ahead and
15 answer.
16 A. No.
17 Q. How do you calculate the
18 commissions you get paid?
19 A. I don't. That's between whatever
20 business and my boss and they break it down
21 from that and I get a commission from that.
22 Q. Do you have any understanding what
23 that commission is?
24 A. Yes.
25 Q. What is your understanding?

[Page 20]

1 GALLAGHER
2 A. That when I was first hired how I
3 was -- the amount of the commission was
4 either two or five percent. I can't remember
5 which one it was.
6 Q. Two or five percent of what?
7 A. Of whatever the machines make.
8 Q. You get two or five percent of
9 whatever the machines make at the facilities
10 on your route; is that correct?
11 A. Yes.
12 Q. So if there are more facilities on
13 your route you make more money and if there
14 are fewer, you make less money; is that
15 correct?
16 A. Yes, yes.
17 Q. What percentage of your salary is
18 commission and what percentage is salary?
19 A. (No response).
20 Q. On average.
21 A. (No response).
22 MR. SUSSMAN: Do you understand
23 what he's asking you?
24 THE WITNESS: No.
25 Q. Is the majority of your pay in the

[Page 21]

[6] (Pages 18 to 21)

1 GALLAGHER
 2 form of commission or salary?
 3 A. Salary.
 4 Q. What percentage of your pay is in
 5 the form of salary approximately?
 6 MR. SUSSMAN: You can give him
 7 real numbers if it's easier. On a week by
 8 week basis, you have a certain amount coming
 9 in in salary and in commission. He's asking
 10 you what is the relationship between those
 11 two, if you know.
 12 A. Normal salary is 325, 350.
 13 Q. For what?
 14 A. For salary.
 15 Q. Over what period of time?
 16 A. That's just a base salary.
 17 Q. Per day, per month?
 18 A. Per week.
 19 Q. Thank you.
 20 A. Per week. Commission what I
 21 normally make, I make -- altogether I make
 22 like 600 bucks but after taxes I bring home
 23 about 455.
 24 Q. On a typical day when you arrive
 25 at Shawangunk, where would you enter?
 [Page 22]

1 GALLAGHER
 2 A. Right to the trailer.
 3 Q. What is the trailer?
 4 A. Where you sign in. It's like the
 5 administration building.
 6 Q. Visitors entrance?
 7 A. Yes.
 8 Q. Is it marked visitors entrance?
 9 A. Yes.
 10 Q. What did you do when you go into
 11 the visitors entrance?
 12 A. You go in, you sign in the time,
 13 where you're from, just who you are, you show
 14 ID. They stamp your hand that you're a
 15 visitor and you go on.
 16 Q. Where do you sign in, is there a
 17 book?
 18 A. There's a book right there.
 19 Q. Is there a book at a desk?
 20 A. Yes.
 21 Q. Is there an officer who is
 22 standing there with the book?
 23 A. Yes.
 24 Q. Do you yourself sign in when you
 25 enter the facility?
 [Page 23]

1 GALLAGHER
 2 A. Yes.
 3 Q. What happens next?
 4 A. You sign in, you get stamped, they
 5 stamp that you're a visitor. You go down the
 6 hallway, the gate is locked so you have to
 7 wait until they open the gate. Then you go
 8 through another set of gates. You wait for
 9 them. You show the stamp, it's a florescent
 10 stamp, and you go into whatever section you
 11 need to go into. If you're going into the
 12 visit room, you go into the visit room. If
 13 you want to go to the employee lounge, you do
 14 that.
 15 Q. On a typical day would you have an
 16 escort?
 17 A. No, I never had an escort. There
 18 was more than enough officers usually around
 19 there.
 20 Q. What do you mean by that?
 21 A. There's usually officers at every
 22 post. At every gate there's an officer.
 23 Q. At every security gate?
 24 A. Yes.
 25 Q. Is there a security gate at the
 [Page 24]

1 GALLAGHER
 2 visiting room?
 3 A. Yes.
 4 Q. Is there a security gate at the
 5 employee lounge?
 6 A. No.
 7 Q. What time did you arrive at
 8 Shawangunk on May 9, 2007?
 9 A. Had to be after seven. Between
 10 seven and eight.
 11 Q. A.m.?
 12 A. Yes.
 13 Q. You were in a truck; is that
 14 correct?
 15 A. Yes.
 16 Q. Where did you put the truck?
 17 A. There's a spot for trucks that
 18 they park -- allow you to park right in
 19 front.
 20 Q. Was anyone with you?
 21 A. No.
 22 Q. As a general matter when you do
 23 your route, do you do it alone?
 24 A. Yes.
 25 Q. Did you ever have someone with you
 [Page 25]

[7] (Pages 22 to 25)

1 GALLAGHER
2 when you serviced the machines at Shawangunk?
3 A. As far as who? As far as an
4 officer?
5 Q. Someone else from Rockland.
6 A. No, no.
7 Q. Did you ever bring someone from --
8 A. No, no. Unless you were training,
9 no.
10 Q. Were you ever training at
11 Shawangunk?
12 A. Yes, I did -- when I first started
13 I was trained how to do the machines, you
14 know, she had to show me what to do and how
15 to do it.
16 Q. Who trained you?
17 MR. SUSSMAN: This is
18 Shawangunk or in general?
19 MR. SCHULZE: Shawangunk.
20 MR. SUSSMAN: Who trained you
21 at Shawangunk?
22 A. I want to say our route
23 supervisor, Darren Maguire.
24 Q. What period did you train at
25 Shawangunk?

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1 GALLAGHER
2 A. It's usually like a week training.
3 Q. So when was that?
4 A. In the beginning when I was first
5 hired in June.
6 Q. 2006?
7 A. Yes.
8 Q. Did you meet Roxanne Creen in June
9 of 2006?
10 A. No.
11 Q. When did you first meet Roxanne?
12 A. Prior to that, never.
13 Q. When did you first meet her?
14 A. Prior?
15 Q. Ever.
16 A. Never. I have never met her.
17 Q. You have never met her?
18 A. No. I used to deal with the
19 Margie lady. I mean she was. . . .
20 Q. Just so I'm clear, because I don't
21 think you understand the question, are you
22 saying the first time you ever saw Roxanne is
23 in this room today?
24 A. Yes. Besides when it happened
25 that day, the incident, I never met her. We

[Page 27]

1 GALLAGHER
2 never had any dealings. I dealt with her --
3 with the next person.
4 Q. The first time you ever saw
5 Roxanne Creen was on May 9, 2007?
6 A. Yes.
7 Q. After you parked your truck in the
8 spot for trucks outside the facility on May
9 9, 2007, what did you do?
10 A. I got out of my truck, got my
11 tickets, my money bags. I grabbed my cart
12 with the cold food or whatever I needed for
13 that day and I went in.
14 Q. What did you need for that day?
15 A. I could have brought in chips and
16 some cold food and some soda, stuff like
17 that.
18 Q. How big is your cart?
19 A. It's six-foot cart, five-foot
20 cart.
21 Q. Six feet in length?
22 A. Yes, it's a fold-down cart.
23 Q. What does that mean?
24 A. It's -- it's a vendors cart. What
25 it is you can have it upright, stand it

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1 GALLAGHER
2 straight up or you can fold it down where you
3 could put supplies on it. It's kind of like
4 a U-boat, you know.
5 Q. Did you fold it down on that day?
6 A. Yes.
7 Q. It had supplies on it?
8 A. Yes.
9 Q. What tickets did you have with
10 you?
11 A. The ones for the visit room, the
12 ones for the employees. That was it.
13 Q. This was a Wednesday?
14 A. Yes.
15 Q. Had you been at the facility that
16 Monday?
17 A. Yes.
18 Q. Did you have any problems that
19 Monday?
20 A. Not a problem.
21 Q. When you walked in the facility on
22 Wednesday, did you sign in?
23 A. Yes.
24 Q. Who was the officer?
25 A. I want to say it was McCarthy.

[Page 29]

[8] (Pages 26 to 29)

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1 PENN PLAZA, NEW YORK, NY 10119 Tel: 212-759-6014

1 GALLAGHER
2 Q. Why do you want to say that?
3 A. Because I remember talking to her.
4 Q. What did you say to her?
5 A. Just how's the weather, you know,
6 basic conversation.
7 Q. Did you know Ms. McCarthy?
8 A. Prior to that, no.
9 Q. Was that the first time you had
10 ever seen her?
11 A. No. I used to be in there few
12 times a week so you get to know the faces of
13 the officers and you say how are you doing,
14 you know.
15 Q. So you knew Ms. McCarthy in that
16 manner before this date?
17 A. Yes, pretty much.
18 Q. You recognized her?
19 A. Yes.
20 Q. How long did it take you to sign
21 in?
22 A. Seconds.
23 Q. Were any other officers present?
24 A. There might have because there was
25 another little -- they have the officers

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1 GALLAGHER
2 lounge so I didn't see anyone around.
3 Q. Was anyone going in and out of the
4 facility at that time?
5 A. No.
6 Q. After you signed in, what did you
7 do?
8 A. I walked down to the -- down the
9 hallway. That's where Mrs. Creen and
10 Ms. Margie met me. They were interested in
11 my money.
12 Q. This hallway is past the area
13 where you signed in?
14 A. Yes.
15 Q. But you had not gone through the
16 security; correct?
17 A. Yes.
18 Q. Correct, you had not yet gone
19 through the security gate?
20 A. Yes.
21 Q. You met Mrs. Creen and who in this
22 hallway?
23 A. Margie.
24 Q. Margie. Do you know Margie's last
25 name?

[Page 31]

1 GALLAGHER
2 A. No.
3 Q. Had you met Margie before?
4 A. Yes, I used to deal with her
5 regularly.
6 Q. She was your contact person at
7 Shawangunk?
8 A. I would give refunds. People
9 would lose the money from the machines and I
10 would give them refunds. Besides that,
11 that's all the dealings I had with her.
12 Q. When you met in the hallway, what
13 did they say to you and what did you say to
14 them?
15 A. They were interested in -- they
16 said your boss owes us commission. We want
17 our commission. I said that's between you
18 and him. It has nothing to do with me. I'm
19 not here for that. I can't give you any
20 money. It has nothing to do with me.
21 Q. Okay. Who said your boss owes us
22 commission?
23 A. Ms. Creed.
24 Q. Creen?
25 A. Creen.

[Page 32]

1 GALLAGHER
2 Q. Did anyone introduce Ms. Creen to
3 you before she said that?
4 A. No, she said her name. She said
5 her name and where she was from, what
6 position she held.
7 Q. Okay. What was that?
8 A. She is the -- she was from the
9 accounting department or something like that.
10 Q. She said she was from the
11 accounting department and she gave you her
12 name?
13 A. Yes.
14 Q. What did she say after that?
15 A. She tried several times to get a
16 hold of my boss because he owed them
17 commission.
18 MR. SUSSMAN: Let him finish.
19 What did she say?
20 MR. SCHULZE: I thought he was
21 done.
22 Q. Go ahead.
23 A. She wanted commission, et cetera.
24 She wanted the commission and she couldn't
25 get a hold of him and she was going to teach

[Page 33]

[9] (Pages 30 to 33)

1 GALLAGHER
 2 us a lesson.
 3 Q. Go ahead. Let me know when you're
 4 done.
 5 A. I'm finished. Go ahead.
 6 Q. Did she use the words I want to
 7 teach you a lesson?
 8 A. Yes.
 9 Q. Was she referring to you?
 10 A. No, my boss.
 11 Q. Your boss is Mr. Freed?
 12 A. Yes.
 13 Q. Margie was present at this time?
 14 A. Yes.
 15 Q. Was the door between the hallway
 16 you were in and the desk where you signed in
 17 open or closed?
 18 A. By the -- by that time when that
 19 was happening we were in the visit room.
 20 Q. We are just talking about the
 21 hallway now.
 22 A. Yes, it was open.
 23 Q. In the hallway, what was the full
 24 conversation you had?
 25 A. (No response).

[Page 34]

1 GALLAGHER
 2 A. No. We were kind of talking and
 3 walking while this was going on.
 4 Q. Did Marjorie say anything in the
 5 hallway?
 6 A. Not that I recall.
 7 Q. In the hallway, did you ask to
 8 call Rockland?
 9 A. No. We were already in the visit
 10 room.
 11 Q. In the hallway?
 12 A. In the hallway, I had no idea this
 13 was going on. We were walking and talking.
 14 Q. In the hallway, did you ask anyone
 15 else to call Rockland Vending on your behalf?
 16 A. I told her to call them.
 17 MR. SUSSMAN: Just listen to
 18 the question. In the hallway. He's dividing
 19 up the incident between the hallway and the
 20 visiting room. He's asking you in the
 21 hallway, did you ask anyone to call Rockland
 22 Vending on your behalf. That's the question.
 23 THE WITNESS: No.
 24 MR. SUSSMAN: Just answer the
 25 question. Don't go further. He will get to

[Page 36]

1 GALLAGHER
 2 Q. Before you went anywhere else.
 3 A. That we owe her commission and she
 4 had been trying to contact my boss about the
 5 commission and that they wanted it.
 6 Q. Did you ask her why she was asking
 7 that to you?
 8 A. I told her it has nothing to do
 9 with me and you would have to settle it with
 10 him. She said that -- excuse me. She tried
 11 to get a hold of him several times. She
 12 could never get a hold of him.
 13 Q. Did anyone say that they were
 14 going to confiscate the money you took out of
 15 the machine?
 16 MR. SUSSMAN: In the hallway?
 17 MR. SCHULTZE: Yes.
 18 MR. SUSSMAN: In the hallway
 19 did anyone say that?
 20 A. That was in the visit room that
 21 they said that.
 22 Q. In the hallway?
 23 A. Not that I recall.
 24 Q. Did you ask in the hallway why she
 25 was telling you this about the commissions?

[Page 35]

1 GALLAGHER
 2 the visiting room.
 3 THE WITNESS: All right.
 4 Q. Your testimony, just so I'm clear,
 5 is that while you were in the hallway no one
 6 said they were going to take the money that
 7 you took out of the vending machines; is that
 8 correct?
 9 A. No, they didn't say anything about
 10 that.
 11 Q. While in the hallway you didn't
 12 ask to call Rockland or didn't ask anyone
 13 else to call Rockland; is that correct?
 14 A. No.
 15 MR. SUSSMAN: He's asking a
 16 question confusing -- the record is going to
 17 be confused. In the hallway you didn't ask
 18 to have anyone call Rockland. Your answer to
 19 that is no, meaning no, you didn't ask,
 20 right?
 21 THE WITNESS: No, I didn't.
 22 MR. SCHULZE: Now I'm confused.
 23 MR. SUSSMAN: The answer to the
 24 question would be yes.
 25 MR. SCHULZE: I said correct.

[Page 37]

[10] (Pages 34 to 37)

1 GALLAGHER
2 MR. SUSSMAN: The answer is
3 yes, it's correct. His answer was no. So
4 that's what is confusing. He's saying now --
5 MR. SCHULZE: Let's go over it
6 back again.
7 MR. SUSSMAN: Go ahead. It's
8 not your fault. Let him ask the question.
9 Q. When you were in the hallway, did
10 you ask to call Rockland?
11 A. Not at that time, no.
12 Q. Did you ask anyone else to call
13 Rockland?
14 A. Yes.
15 Q. Who did you ask to call Rockland
16 while you were in the hallway?
17 A. Not in the hallway.
18 Q. We are just talking about the
19 hallway?
20 A. No, no, no.
21 Q. While you were in the hallway, did
22 anyone tell you that they were going to
23 confiscate money?
24 A. No.
25 Q. Where did you go from the hallway?
[Page 38]

1 GALLAGHER
2 A. We walked into the visit room.
3 Q. Did you have to go through a
4 security area before you went into the
5 visiting room?
6 A. Yes.
7 Q. What is the first security area
8 you went through?
9 A. There are two locked gates. Then
10 you go through, then there's another locked
11 gate. Then there's another locked gate to go
12 into the visit room.
13 Q. Prior to going through the first
14 security gate, had anyone told you that they
15 were going to confiscate money?
16 A. No.
17 Q. Prior to going through the first
18 security gate, had you asked to call
19 Rockland?
20 A. No.
21 Q. Prior to going through the first
22 security gate, did you ask anyone else to
23 call Rockland?
24 A. No.
25 Q. After you went through the
[Page 39]

1 GALLAGHER
2 security gate, you went to the visiting room?
3 A. Yes.
4 Q. Was anyone with you?
5 A. Ms. Creed.
6 Q. Was there an officer on duty at
7 the first security point?
8 A. Yes.
9 Q. Who was that officer?
10 A. I don't know. He's behind the
11 glass, tinted glass.
12 Q. Could you see him?
13 A. Barely.
14 Q. Did you recognize him?
15 A. Yes.
16 Q. Who was it?
17 A. I didn't know his name. I know
18 him by face.
19 Q. He was someone you had seen before
20 at the facility?
21 A. Yes.
22 Q. But you don't know who it was; is
23 that fair?
24 A. I didn't know his name, no.
25 Q. Was there an officer on duty
[Page 40]

1 GALLAGHER
2 outside the visiting room?
3 A. There's a booth that's -- a locked
4 booth, yes.
5 Q. Who was the officer on duty there?
6 A. I don't know.
7 Q. Was it someone you recognized?
8 A. You can't see. It's tinted.
9 Q. Did you recognize the officer from
10 prior visits to Shawangunk?
11 MR. SUSSMAN: He just said he
12 couldn't see, it was tinted.
13 MR. SCHULZE: He said the same
14 thing about the other place.
15 A. In the first security booth
16 there's a hole. You put your hand there so
17 they can see your stamp. They say yah or
18 nay. The second booth you don't see them
19 because it's a locked booth with tinted
20 windows and you got all their cameras and
21 stuff.
22 Q. You know there was an officer in
23 that booth; correct?
24 A. Yes.
25 Q. Did you talk to that officer at
[Page 41]

[11] (Pages 38 to 41)

1 GALLAGHER
2 all?
3 A. No.
4 Q. Did that officer open up the door
5 to the visiting room?
6 A. Yes.
7 Q. How did he do that?
8 A. I guess electrically.
9 Q. Did anyone tell the officer to do
10 that?
11 A. Well, normally if you're at the
12 gate they open the gate.
13 Q. Did someone say please open the
14 gate or does it just open?
15 A. It opens when they see you there,
16 standing there.
17 Q. When you went into the visiting
18 room, was anyone else there?
19 A. There was a CO in the far back.
20 Q. Do you know who that was?
21 A. No.
22 Q. Were there any visitors or inmates
23 in the room?
24 A. No.
25 Q. Did anyone walk into the visiting
[Page 42]

1 GALLAGHER
2 room with you?
3 A. Yes, Mrs. Creen, the Margie lady
4 and there was another lady that helped tally
5 up the money.
6 Q. Who was that?
7 A. I don't know her name.
8 Q. Is it someone you recognized?
9 A. No.
10 Q. Had you ever seen that person
11 before?
12 A. No.
13 Q. Do you know whether they were
14 employed by DOCS?
15 A. Yes, they were there. You know,
16 they were an assistant to somebody but I
17 couldn't recall her name.
18 Q. Did Ms. Creen, Margie and this
19 other woman walk in with you when you first
20 entered the visiting room?
21 A. Yes.
22 Q. What is the first thing that
23 happened when you entered the visiting room?
24 A. They said they were instructed by
25 their lawyer they can confiscate my money
[Page 43]

1 GALLAGHER
2 bags.
3 Q. What did you understand that to
4 mean?
5 A. They were trying to take my money.
6 Q. Is it your money?
7 A. No, well, it's my -- I'm
8 responsible for that money but it's
9 Mr. Freed's money.
10 Q. You're referring to the money
11 that's collected out of the vending machines;
12 is that correct?
13 A. Yes.
14 Q. Who said that?
15 A. Mrs. Creen.
16 Q. Did she say who the lawyer was?
17 A. No.
18 Q. What did you say in response to
19 that?
20 A. I said I'm not giving it up. I
21 said does Mike know about this. That's when
22 they said we will contact him. I said no, I
23 want to know -- I want to hear from Mike that
24 he knows about this, what is going on here.
25 She said she will contact him.
[Page 44]

1 GALLAGHER
2 Q. She meaning Roxanne?
3 A. Yes.
4 Q. What did you say to that?
5 A. I said I'm not giving up anything
6 until that happens. This went back and forth
7 for a while because we normally don't give
8 out cash. I have no -- none of that. I have
9 nothing to do with that as far as commission
10 wise.
11 Q. How long did this go back and
12 forth?
13 A. It went back and forth throughout
14 the whole time I was giving them the money so
15 90 minutes.
16 Q. Before you did anything regarding
17 the machines, how long were you talking to
18 Ms. Creen?
19 MR. SUSSMAN: In the visiting
20 room, is that the question?
21 MR. SCHULTZE: That's where we
22 are now.
23 MR. SUSSMAN: This doesn't mean
24 that's what the question is, counsel. Please
25 be precise. You want precise answers, ask
[Page 45]

[12] (Pages 42 to 45)

1 GALLAGHER
 2 him precise questions. It's not whether I
 3 object or not. I want the questions to be
 4 precise so I know exactly what he's
 5 answering.
 6 MR. SCHULZE: Then say
 7 objection.
 8 MR. SUSSMAN: I'm not going to
 9 say objection. I'm going to say ask it more
 10 specifically so I understand.
 11 In the visiting room before you
 12 dealt with the machines, how long were you
 13 talking with Ms. Creen?
 14 MR. SCHULZE: This isn't your
 15 deposition.
 16 MR. SUSSMAN: Is that your
 17 question?
 18 MR. SCHULZE: Is that your
 19 question? I will ask the question.
 20 MR. SUSSMAN: Go ahead.
 21 Q. You're in the visiting room now;
 22 is that correct?
 23 A. Yes.
 24 Q. You're having a conversation with
 25 Ms. Creen; is that correct?

[Page 46]

1 GALLAGHER
 2 A. Yes.
 3 Q. How long did that conversation go
 4 on before you touched the machines?
 5 A. A while. I wasn't just going to
 6 hand out my money so it went back and forth
 7 for a while.
 8 Q. How long?
 9 A. 20 minutes, half hour.
 10 Q. For 20 minutes or half an hour,
 11 you're having a conversation with Ms. Creen
 12 where she says she is going to confiscate the
 13 money because her lawyer told her to and
 14 you're saying you're not going to give it to
 15 her; is that correct?
 16 A. Yes.
 17 Q. During this 20 to 30 minutes, did
 18 you try to leave?
 19 A. I couldn't. The gate was locked.
 20 Q. Did you ever ask to leave?
 21 A. No, I didn't ask to leave.
 22 Q. There came a point when you
 23 started to take money out of the machines; is
 24 that correct?
 25 A. Yes.

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1 GALLAGHER
 2 Q. Why did you do that?
 3 A. Because I felt I had to give them
 4 the money or they were not going to let me
 5 out.
 6 Q. What specifically led you to
 7 believe that?
 8 A. Because they kept on insisting
 9 they wanted their money and her going to
 10 teach us a lesson and I felt that if I didn't
 11 give it up, that I wasn't getting out that
 12 door.
 13 Q. But you didn't ask to leave; is
 14 that correct?
 15 A. No, I didn't ask to leave.
 16 Q. Did you take money out of all the
 17 machines in the visiting room on this day?
 18 A. Yes.
 19 Q. Were you scheduled to take money
 20 out of all the machines in the visiting room
 21 on this day?
 22 A. Yes.
 23 Q. How long does it usually take to
 24 get the money out of the machines in the
 25 visiting room at Shawangunk?

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1 GALLAGHER
 2 A. I'm usually in and out of there in
 3 half an hour.
 4 Q. On this date once you started
 5 getting the money out of the machine, how
 6 long did it take?
 7 A. Throughout the whole thing,
 8 probably took about 90 minutes.
 9 Q. Was anyone counting the money that
 10 came out of the visiting machines on this
 11 date?
 12 A. Yes.
 13 Q. Who was doing that?
 14 A. Ms. Margie and her assistant.
 15 Q. They were both counting?
 16 A. Yes.
 17 Q. Were you counting?
 18 A. Yes.
 19 Q. Did you all reach the same totals?
 20 A. Yes.
 21 Q. Is it usual practice to count the
 22 money that's coming out of the machines as
 23 you're taking it out?
 24 A. No.
 25 Q. Go ahead.

[Page 49]

<p>1 GALLAGHER</p> <p>2 A. I don't deal with the money.</p> <p>3 That's what they usually do. They have an</p> <p>4 office that deals with that. I put it in the</p> <p>5 money bag and I'm done.</p> <p>6 Q. Is it fair to say that counting</p> <p>7 the money slowed the process down in taking</p> <p>8 the money out of the machine?</p> <p>9 A. Yes.</p> <p>10 Q. After the money was counted, what</p> <p>11 happened to it?</p> <p>12 A. They put it in an envelope, they</p> <p>13 gave me a receipt, and that was it. I went</p> <p>14 onto the next machine.</p> <p>15 Q. Who gave you the receipt?</p> <p>16 A. Margie.</p> <p>17 Q. Was Ms. Creen present while you</p> <p>18 were taking the money out of the machine?</p> <p>19 A. She was in and out of the room.</p> <p>20 Q. When did she leave the room for</p> <p>21 the first time?</p> <p>22 A. After -- right after I said I was</p> <p>23 not giving up the money and she said she was</p> <p>24 going to go upstairs and call Mr. Freed.</p> <p>25 Q. Did she come back into the room</p> <p style="text-align: right;">[Page 50]</p>	<p>1 GALLAGHER</p> <p>2 but it was either busy or she couldn't get a</p> <p>3 hold of anybody. We had a secretary that</p> <p>4 takes care of it right there. So I told her</p> <p>5 let me call them because I want him to know</p> <p>6 what was going on.</p> <p>7 Q. What specifically did she say to</p> <p>8 you, do you remember the words?</p> <p>9 A. That she tried contacting him.</p> <p>10 Q. Him meaning?</p> <p>11 A. Mr. Freed.</p> <p>12 Q. And?</p> <p>13 A. It was either busy or she couldn't</p> <p>14 get a hold of anybody.</p> <p>15 Q. She was contacting Mr. Freed at</p> <p>16 your request?</p> <p>17 A. Yes. I told her several times and</p> <p>18 I also told Margie to call Mr. Freed because</p> <p>19 I wanted him to know this -- what was going</p> <p>20 on.</p> <p>21 Q. Did you ask to call Mr. Freed</p> <p>22 yourself?</p> <p>23 A. I couldn't. There was no phones.</p> <p>24 Q. Did you ask to call Mr. Freed?</p> <p>25 A. No, I didn't call Mr. Freed.</p> <p style="text-align: right;">[Page 52]</p>
<p>1 GALLAGHER</p> <p>2 before you started taking money out of the</p> <p>3 machines?</p> <p>4 A. She was in and out of the room,</p> <p>5 yes.</p> <p>6 Q. At what point did she come back</p> <p>7 into the room for the first time?</p> <p>8 A. Right after the second machine.</p> <p>9 Q. So by the time she got back into</p> <p>10 the room you had already taken money out of</p> <p>11 the first machine; is that correct?</p> <p>12 A. Yes, yes.</p> <p>13 Q. Had you given that money to one of</p> <p>14 the other DOCS representatives?</p> <p>15 A. Yes.</p> <p>16 Q. Had you gotten a receipt for that</p> <p>17 machine?</p> <p>18 A. Yes.</p> <p>19 Q. This all happened before Ms. Creen</p> <p>20 returned to the room; is that correct?</p> <p>21 A. Give or take, yes.</p> <p>22 Q. When Ms. Creen came back into the</p> <p>23 room, did she say whether she had contacted</p> <p>24 anybody?</p> <p>25 A. She said she tried to contact him</p> <p style="text-align: right;">[Page 51]</p>	<p>1 GALLAGHER</p> <p>2 Q. Did you ask to be able to?</p> <p>3 A. No.</p> <p>4 Q. After she said she wasn't able to</p> <p>5 reach Mr. Freed after this first return to</p> <p>6 the visiting room, what did you say?</p> <p>7 A. I said I wanted her to re-call</p> <p>8 Mr. Freed.</p> <p>9 Q. To try again?</p> <p>10 A. Yes.</p> <p>11 Q. What did she say?</p> <p>12 A. She said she would.</p> <p>13 Q. Did she leave the room?</p> <p>14 A. Yes.</p> <p>15 Q. How long did that conversation</p> <p>16 take?</p> <p>17 A. Between me and her?</p> <p>18 Q. Yes.</p> <p>19 A. Couple of seconds.</p> <p>20 Q. Did she say whether she left a</p> <p>21 message?</p> <p>22 A. I don't recall.</p> <p>23 Q. After she left the room on this</p> <p>24 occasion, how long was she gone?</p> <p>25 A. She was gone a while because I was</p> <p style="text-align: right;">[Page 53]</p>

[14] (Pages 50 to 53)

1 GALLAGHER
 2 pretty much done with the visiting room. I
 3 told Margie to call Mr. Freed. I wanted to
 4 know what was going on, I wanted him to know
 5 what is going on.
 6 Q. Did Ms. Creen return to the
 7 visiting room before you had finished?
 8 A. I don't recall.
 9 Q. When is the next time you saw
 10 Ms. Creen that day?
 11 A. I think exiting the visiting room.
 12 Q. Did you have other machines to
 13 service at that point?
 14 A. Yes, yes.
 15 Q. What location in the facility did
 16 you see her?
 17 A. Coming out of the visit room, the
 18 booth going into the employee lounge.
 19 Q. Outside the security door of the
 20 visiting room?
 21 A. Yes.
 22 Q. At this point, what did she say to
 23 you and what did you say do her?
 24 A. I said did you contact Mr. Freed.
 25 She said she couldn't get a hold of him.

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1 GALLAGHER
 2 Q. Did she say whether she contacted
 3 anyone else at Rockland?
 4 A. No.
 5 Q. When she said that, what did you
 6 say to her?
 7 A. That she really needs to call him.
 8 I want him to know what is going on here.
 9 Q. What happened next?
 10 A. I went into the employees lounge.
 11 Of the five machines that were there, I
 12 collected two more. Margie was there. She
 13 took down -- she counted the money, gave me
 14 receipts for both machines. She asked when
 15 was I going to be back for the rest of her
 16 money, for the rest of the money. I said
 17 they knew I was supposed to come back on
 18 Friday and that was it.
 19 Q. Was Ms. Creen in the room when you
 20 went into the employee lounge?
 21 A. No, she was upstairs.
 22 Q. How do you know that?
 23 A. Because she had something going on
 24 in her office. She had a meeting or
 25 something.

[Page 55]

1 GALLAGHER
 2 Q. Did she tell you that?
 3 A. She said something like that, yes.
 4 Q. Did she tell you whether she was
 5 going to try to get in touch with Mr. Freed?
 6 A. Yes, she was going to try to get a
 7 hold of him. I also told Margie to get a
 8 hold of Mr. Freed. She said she would.
 9 Q. Was anyone else present in the
 10 visiting room other than you and Margie?
 11 MR. SUSSMAN: Visiting room or
 12 the --
 13 MR. SCHULZE: You're right.
 14 Q. Was anyone else present in the
 15 employee lounge besides you and Margie?
 16 A. There was -- her assistant was
 17 there and was counting up the money, too.
 18 Q. This was the woman that was also
 19 in the visiting room?
 20 A. Yes.
 21 Q. Did you take money out of all the
 22 machines in the employees lounge?
 23 MR. SUSSMAN: Asked and
 24 answered. He said he took money out of two
 25 of the five machines.

[Page 56]

1 GALLAGHER
 2 Q. You can answer unless he instructs
 3 you not to answer.
 4 MR. SUSSMAN: You can answer.
 5 A. Did I take money out of all of the
 6 machines, no.
 7 Q. Did anyone ask you to take money
 8 out of all of the machines?
 9 A. Yes.
 10 Q. Who asked you that?
 11 A. Margie.
 12 Q. What did she say?
 13 A. She was asking when do I service
 14 the other machines, when do I count the other
 15 machines. She knew I came back on Friday and
 16 so she said I will see you for the rest of
 17 the money on Friday.
 18 Q. Would you have been able to take
 19 money out of the other machines in the
 20 employee lounge on this date?
 21 A. No, because I didn't service those
 22 machines.
 23 Q. Would it have been possible to get
 24 the money out of the machines?
 25 A. It would have been possible, yes,

[Page 57]

[15] (Pages 54 to 57)

1 GALLAGHER
2 but I'm not doing it. I wasn't supposed to
3 do it. I wasn't supposed to hand over any
4 money. I wasn't doing it.
5 Q. So we clear, it would have been
6 possible for you to take money out of the
7 machine and no one forced you to do it?
8 A. The temptation was there. They
9 wanted their money, but I wasn't giving it
10 up.
11 Q. Again --
12 MR. SUSSMAN: Listen to the
13 question please.
14 Q. It was possible for you to take
15 money out of those machines; is that correct?
16 A. Yes.
17 Q. But no one at DOCS forced you to
18 take money out of those machines on that day;
19 correct?
20 A. No.
21 Q. After you finished with the
22 machine -- was it two machines in the
23 employee lounge?
24 A. Yes.
25 Q. You left the facility?

[Page 58]

1 GALLAGHER
2 A. Yes.
3 Q. Did anyone try to stop you?
4 A. No.
5 Q. Prior to leaving the facility on
6 that date, you never asked to be able to
7 leave; is that correct?
8 A. No.
9 Q. That's correct, you never asked;
10 right?
11 A. I left and called my boss.
12 Q. But you never asked anyone --
13 A. I never asked anybody.
14 Q. -- to be able to leave the
15 facility; is that correct?
16 A. No, I hadn't asked anybody.
17 MR. SCHULZE: Let's take two
18 minutes before I move on from this area. Is
19 that okay?
20 MR. SUSSMAN: Sure.
21 (Whereupon, a recess was
22 taken.)
23 Q. After you left the facility,
24 Shawangunk Correctional Facility on May 9th,
25 what's the first thing you did?

[Page 59]

1 GALLAGHER
2 A. I drove down to 211. I got a hold
3 of my boss. In the Shawangunk area, there's
4 no cell phone reception. I called my boss --
5 Q. Go ahead. I thought you were
6 done. Go ahead.
7 A. Told him what was going on. I
8 talked to his wife. Told his wife -- she
9 told me to hold on, she will call me back.
10 She in turn called Mr. Freed, which they had
11 no idea what was going on because none of
12 them called. And he in turn told me to go to
13 the State troopers barracks on 299. I turned
14 around I went to the State trooper barracks
15 to file a report.
16 Q. Let's break it down. After you
17 left the facility, you got in your truck and
18 you drove to find cell phone service; is that
19 correct?
20 A. Yes.
21 Q. Did you pull over when you got a
22 signal?
23 A. Yes.
24 Q. Who did you call?
25 A. I called my job.

[Page 60]

1 GALLAGHER
2 Q. You called Rockland Vending?
3 A. I called Rockland Vending.
4 Q. Who answered the phone?
5 A. The secretary, Diane Roper.
6 Q. Did you tell her what was going
7 on?
8 A. I asked to speak to Cheryl or
9 Mike, if they were in the office. She in
10 turn got Cheryl.
11 MR. SUSSMAN: Just answer the
12 specific question. He will ask you specific
13 questions. You let him ask the question and
14 you answer that question. The question was
15 did you tell Diane what was going on.
16 A. Yes.
17 Q. What did you say to Diane?
18 A. That Shawangunk, they wanted a
19 commission. They took the money out of the
20 machines, they were instructed by their
21 lawyer that they could take the money out of
22 the machines. I had to give them their money
23 because I was locked into the visiting room.
24 Q. You told Diane this?
25 A. No, she got Cheryl. I told Diane

[Page 61]

[16] (Pages 58 to 61)

1 GALLAGHER
 2 I had problems at Shawangunk.
 3 Q. You wanted to speak to Cheryl?
 4 A. Yes.
 5 Q. She went and got Cheryl?
 6 A. Yes.
 7 Q. Cheryl got on the phone then; is
 8 that correct?
 9 A. Yes.
 10 Q. Then you said the story you just
 11 gave to Cheryl; is that correct?
 12 A. Yes.
 13 Q. What did she say to you?
 14 A. She told me to hold on, she will
 15 call me back. She was going to call Mike
 16 because Mike was out of the office.
 17 Q. Mike meaning Mike Freed?
 18 A. Yes.
 19 Q. What is Cheryl's position with
 20 Rockland?
 21 A. She is I guess the assistant. She
 22 is the boss' wife, you know, co-owner.
 23 Q. After she told you she was going
 24 to get a hold of Mike, did she hang up?
 25 A. Yes.

[Page 62]

1 GALLAGHER
 2 Q. What did you do after she hung up?
 3 A. I waited there on the spot. I was
 4 pulled over.
 5 Q. Did your phone ring again?
 6 A. Yes.
 7 Q. How long was it between --
 8 A. A few seconds.
 9 Q. The phone rang a few seconds after
 10 you hung up?
 11 A. Yes.
 12 Q. Who was it?
 13 A. It was Mike.
 14 Q. What did Mike say?
 15 A. That I had to go to the State
 16 trooper barracks.
 17 Q. Did Mike say anything to you that
 18 indicated that he knew what had happened at
 19 Shawangunk before he said that?
 20 A. No.
 21 Q. Was that all he said?
 22 A. I told him what happened. He
 23 asked what happened. So I explained to him
 24 the details of it. He said you have to go to
 25 the State trooper barracks in New Paltz.

[Page 63]

1 GALLAGHER
 2 Q. Did he say what you were supposed
 3 to do when you went to the State trooper
 4 barracks?
 5 A. File a report.
 6 Q. File a report about what happened
 7 at Shawangunk?
 8 A. Yes.
 9 Q. How far away from the barracks
 10 were you at this point?
 11 A. I was in Montgomery. 45 minutes.
 12 Q. Do you know where Mr. Freed was
 13 when he called you?
 14 A. No. I -- no.
 15 Q. Do you know whether he was at
 16 Rockland's offices or not?
 17 A. I have no idea.
 18 Q. He didn't say where he was; is
 19 that correct?
 20 A. I think he was on a call, a
 21 business call somewhere. I don't know.
 22 Q. But he didn't say where his
 23 physical location was; is that correct?
 24 A. No.
 25 Q. Between the time you had this

[Page 64]

1 GALLAGHER
 2 conversation with Mr. Freed and the time you
 3 reached the police barracks, did you have any
 4 conversations with anyone else?
 5 A. No, I was in the truck by myself.
 6 Q. You didn't call anyone; correct?
 7 A. No.
 8 Q. No one called you during this
 9 time; correct?
 10 A. No.
 11 Q. So the record is clear, did you
 12 receive a call from the time you hung up with
 13 Mr. Freed and the time you reached the police
 14 barracks, yes or no?
 15 A. Yes.
 16 Q. Who called you during that time?
 17 A. Eventually when I hit the State
 18 trooper barracks, I parked the truck --
 19 MR. SUSSMAN: Listen to what
 20 he's asking you. He's not asking you that.
 21 Q. Before you reached the police
 22 barracks --
 23 A. No.
 24 MR. SUSSMAN: Relax. Let him
 25 finish asking the question. Go ahead.

[Page 65]

[17] (Pages 62 to 65)

<p>1 GALLAGHER</p> <p>2 Q. Just so it's clear, no one is</p> <p>3 laughing at you or laughing at the</p> <p>4 artificiality of making a record of this.</p> <p>5 Between the time you hung up with</p> <p>6 Mr. Freed and the time you reached the police</p> <p>7 barracks, did anyone call you?</p> <p>8 A. No.</p> <p>9 Q. After you reached the police</p> <p>10 barracks, what did you do?</p> <p>11 A. I went to talk to the officer but</p> <p>12 he was on lunch so I had to wait.</p> <p>13 Q. What officer?</p> <p>14 A. The head -- he was like a</p> <p>15 sergeant. I don't know his name personally</p> <p>16 but it was the officer on duty.</p> <p>17 Q. Did anyone tell you this</p> <p>18 particular person was the one you had to make</p> <p>19 your report to?</p> <p>20 A. Yes.</p> <p>21 Q. Who said that?</p> <p>22 A. Mr. Freed.</p> <p>23 Q. Did Mr. Freed give you the name of</p> <p>24 the officer you were to make your report to?</p> <p>25 A. Yes.</p> <p style="text-align: right;">[Page 66]</p>	<p>1 GALLAGHER</p> <p>2 Q. During this 20 minutes, did you</p> <p>3 speak to anyone else?</p> <p>4 A. Yes.</p> <p>5 Q. Who?</p> <p>6 A. Hold on a minute. From the</p> <p>7 department or from my job?</p> <p>8 MR. SUSSMAN: Anyone.</p> <p>9 Q. Anyone.</p> <p>10 A. Yes. My route supervisor called.</p> <p>11 He said he was going to meet me there.</p> <p>12 Q. Who is your route supervisor?</p> <p>13 A. Steve Brier.</p> <p>14 Q. Meet you there, meaning the police</p> <p>15 barracks?</p> <p>16 A. Yes.</p> <p>17 Q. Did Steve Brier arrive there</p> <p>18 before you spoke to the person you needed to</p> <p>19 speak to?</p> <p>20 A. Yes.</p> <p>21 Q. When he arrived there, what did</p> <p>22 you say to Steve and what did he say to you?</p> <p>23 A. I told him what happened. He told</p> <p>24 me that Mike sent him up there to be there</p> <p>25 with me, to tell him the story.</p> <p style="text-align: right;">[Page 68]</p>
<p>1 GALLAGHER</p> <p>2 Q. You don't remember what that name</p> <p>3 was?</p> <p>4 A. No.</p> <p>5 Q. Did you write it down?</p> <p>6 A. No. At first he said the head,</p> <p>7 then he said it might have been a sergeant.</p> <p>8 Q. Did Mr. Freed state whether he had</p> <p>9 talked to this person or not?</p> <p>10 A. Yes, he did.</p> <p>11 Q. What did he say?</p> <p>12 A. He said he called ahead and he</p> <p>13 talked to the head guy that was there. He</p> <p>14 was waiting for me to get there.</p> <p>15 Q. Did Mr. Freed tell you what he had</p> <p>16 said to this person?</p> <p>17 A. Not that I recall. I don't know.</p> <p>18 Q. When you got to the police</p> <p>19 barracks, the person you were supposed to</p> <p>20 talk to was there but he was busy with</p> <p>21 something?</p> <p>22 A. Yes.</p> <p>23 Q. How long did you wait to talk to</p> <p>24 him?</p> <p>25 A. 20 minutes.</p> <p style="text-align: right;">[Page 67]</p>	<p>1 GALLAGHER</p> <p>2 Q. Did you tell Steve Brier before</p> <p>3 you spoke to the police officer?</p> <p>4 A. Yes.</p> <p>5 Q. What did he say when you told him?</p> <p>6 A. He was outraged.</p> <p>7 Q. What did he say to lead you to</p> <p>8 that conclusion?</p> <p>9 A. Just his facial expression.</p> <p>10 Q. What were his --</p> <p>11 A. He was upset and he was shocked.</p> <p>12 Q. Can you describe what it was about</p> <p>13 his facial expression that led you to that</p> <p>14 conclusion?</p> <p>15 A. His mouth dropped. He was like</p> <p>16 ah. He was shocked that it happened like</p> <p>17 that.</p> <p>18 Q. What was he shocked at</p> <p>19 specifically?</p> <p>20 A. Shocked I was legally robbed in a</p> <p>21 prison.</p> <p>22 Q. Did you speak to anybody else</p> <p>23 before you spoke to a police officer?</p> <p>24 A. No.</p> <p>25 Q. When you spoke to the police</p> <p style="text-align: right;">[Page 69]</p>

[18] (Pages 66 to 69)

<p>1 GALLAGHER</p> <p>2 officer, was Steve Brier present?</p> <p>3 A. Yes.</p> <p>4 Q. Anybody else?</p> <p>5 A. No.</p> <p>6 Q. You don't remember the officer's</p> <p>7 name; is that correct?</p> <p>8 A. No.</p> <p>9 Q. What did the officer say to you</p> <p>10 and what did you say to him?</p> <p>11 A. I told him what happened.</p> <p>12 Q. Specifically what did you say?</p> <p>13 A. Specifically I told him I went to</p> <p>14 Shawangunk and that they -- the lawyer</p> <p>15 allowed them to confiscate my money bags. I</p> <p>16 thought it was insane that they did that. He</p> <p>17 told me it was a civil matter, there's</p> <p>18 nothing he could do but he would go out and</p> <p>19 check it out.</p> <p>20 Q. Anything else?</p> <p>21 A. He filled out a report. Then</p> <p>22 called around to Shawangunk. I guess he got</p> <p>23 one of those guys on the phone. That's</p> <p>24 pretty much it.</p> <p>25 Q. This was all while you were</p> <p style="text-align: right;">[Page 70]</p>	<p>1 GALLAGHER</p> <p>2 report at that time?</p> <p>3 A. No.</p> <p>4 Q. Did Steve Brier get a copy of the</p> <p>5 report?</p> <p>6 A. He might have.</p> <p>7 Q. Do you know whether he did or not?</p> <p>8 A. I can't say. I think he did.</p> <p>9 Q. Did Steve say anything during the</p> <p>10 meeting with the officer?</p> <p>11 A. He was wondering how they could do</p> <p>12 this.</p> <p>13 Q. What did you say in that regard?</p> <p>14 A. He was wondering how they could</p> <p>15 actually take the money out of the machine,</p> <p>16 confiscate the money.</p> <p>17 Q. What crime did you think you were</p> <p>18 reporting?</p> <p>19 A. Robbery, theft and they were</p> <p>20 holding me in there, so any one of those</p> <p>21 three.</p> <p>22 Q. After you left the police station,</p> <p>23 did Steve Brier go with you?</p> <p>24 A. He followed me in his car.</p> <p>25 Q. Did you have any other stops to</p> <p style="text-align: right;">[Page 72]</p>
<p>1 GALLAGHER</p> <p>2 present?</p> <p>3 A. He didn't do the phone call in</p> <p>4 front of me, no.</p> <p>5 Q. How long were you there with the</p> <p>6 officer?</p> <p>7 A. Hour.</p> <p>8 Q. In the course of this hour, what</p> <p>9 did the officer do?</p> <p>10 A. He immediately said he would check</p> <p>11 into it, go to Shawangunk and find out what</p> <p>12 is going on because he wanted to get their</p> <p>13 side of the story.</p> <p>14 Q. He told you he would do that; is</p> <p>15 that correct?</p> <p>16 A. Yes.</p> <p>17 Q. Did he write out a report while</p> <p>18 you were present?</p> <p>19 A. Yes.</p> <p>20 Q. Did he show you the report?</p> <p>21 A. I think he did, yes, but I can't</p> <p>22 remember.</p> <p>23 Q. Do you have a copy of that report?</p> <p>24 A. No.</p> <p>25 Q. Were you given a copy of that</p> <p style="text-align: right;">[Page 71]</p>	<p>1 GALLAGHER</p> <p>2 make that day?</p> <p>3 A. I did but I didn't do them.</p> <p>4 Q. Do you know whether those stops</p> <p>5 got serviced by Rockland that day?</p> <p>6 A. They might have.</p> <p>7 MR. SUSSMAN: Do not guess. If</p> <p>8 you know, you can say. If you don't know,</p> <p>9 you can say I don't know.</p> <p>10 A. I don't know.</p> <p>11 Q. But you didn't do them; is that</p> <p>12 correct?</p> <p>13 A. No.</p> <p>14 Q. When you left the police station,</p> <p>15 where did you go?</p> <p>16 A. Back to Rockland Vending.</p> <p>17 Q. Did anyone give you instructions</p> <p>18 that that was what you are supposed to do?</p> <p>19 A. Go back to my job.</p> <p>20 Q. Go back to Rockland Vending other</p> <p>21 than other routes --</p> <p>22 A. It was late so I went back to my</p> <p>23 job.</p> <p>24 Q. Steve Brier had followed you in</p> <p>25 the car; is that correct?</p> <p style="text-align: right;">[Page 73]</p>

1 GALLAGHER
 2 A. Yes.
 3 Q. Did anyone talk to you while you
 4 were going from the police station to your
 5 job?
 6 A. No.
 7 Q. When you say you were going to
 8 your job, where is it?
 9 A. It's in Chester.
 10 Q. These are Rockland's offices?
 11 A. Yes.
 12 Q. When you got there, what did you
 13 do?
 14 A. I dropped off the rest of my money
 15 bags and closed my truck and left.
 16 Q. Did you see anybody from Rockland
 17 when you got there?
 18 A. Yes.
 19 Q. Who?
 20 A. Mike was there, excuse me, Cheryl
 21 was there and they wanted to know what
 22 happened in detail.
 23 Q. Was Steve there?
 24 A. Yes.
 25 Q. Anybody else?

[Page 74]

1 GALLAGHER
 2 A. Yes.
 3 Q. Who?
 4 A. The secretary.
 5 Q. Anyone else?
 6 A. No.
 7 Q. What time did you arrive?
 8 A. Five o'clock.
 9 Q. You were saying you had a
 10 conversation with them. What did you say to
 11 them and what did they say to you?
 12 A. I told them what happened. I was
 13 shaken up about it. They were amazed how
 14 this could happen in a State-owned facility.
 15 Q. Can you be more specific about who
 16 said what?
 17 A. I was talking to all three of
 18 them. I told them how this -- how it
 19 happened and they were amazed how they can
 20 legally rob me and get away with it.
 21 Q. But again, can you give me any
 22 specifics that were said during that
 23 conversation?
 24 A. How when I went in I was surprised
 25 this happened. When I went in on Monday,

[Page 75]

1 GALLAGHER
 2 nothing ever happened like this. When I went
 3 in there on Wednesday, that they did this to
 4 me. That I was shocked this happened and I
 5 didn't want to go back. I asked him if I was
 6 going to have to go back. He was like no.
 7 Q. Who said you didn't have to go
 8 back?
 9 A. Mike.
 10 Q. Did anyone mention Roxanne Creen's
 11 name?
 12 A. I don't recall.
 13 Q. When you made your police report,
 14 did you use Roxanne Creen's name?
 15 A. Yes.
 16 Q. What specifically did you say
 17 about her?
 18 A. I told the officer she was the
 19 lady that -- her -- Margie and -- they wanted
 20 their money and that we owe them commission
 21 and they felt -- they were instructed by
 22 their lawyer in Albany that they could do
 23 this.
 24 Q. Anything else?
 25 A. That -- how it was that I was -- I

[Page 76]

1 GALLAGHER
 2 was shaken up from being locked up inside.
 3 Q. Specifically did you say anything
 4 else about Roxanne Creen?
 5 A. I was amazed she could do this.
 6 Q. Anything else?
 7 A. How her lawyer could say they can
 8 write up a slip and I was shocked that he
 9 could do this and get away with it. I asked
 10 the officer, I was like if you can, you know,
 11 if you can actually say that they can rob me,
 12 what's the difference between me being
 13 instructed by my lawyer and rob someone else
 14 and get away with it.
 15 Q. Anything else about Roxanne Creen?
 16 A. No.
 17 Q. How long did the conversation with
 18 Mike, Cheryl and Steve last when you returned
 19 to Rockland on the 9th?
 20 A. It wasn't that long, about half an
 21 hour.
 22 Q. Did they tell you to do anything
 23 at that point?
 24 A. As far as what?
 25 Q. Anything.

[Page 77]

[20] (Pages 74 to 77)

1 GALLAGHER
 2 A. I just wanted to go home. I had
 3 enough of that day. I just wanted to go
 4 home.
 5 Q. Did they say you can go home?
 6 A. Yeah.
 7 Q. And you went home?
 8 A. I went home, yes.
 9 Q. Did you go back to work the next
 10 day?
 11 A. Yes.
 12 Q. When you got back to work the next
 13 day, did you talk about what had happened at
 14 Shawangunk?
 15 MR. SUSSMAN: Just note my
 16 objection. I think we are here for a
 17 deposition regarding a qualified immunity
 18 defense. I think we are starting to get far
 19 afield here.
 20 MR. SCHULZE: I'm going to ask
 21 what he knows about the complaint.
 22 MR. SUSSMAN: He's testified to
 23 that. Go right ahead. I'm making my
 24 objections noted.
 25 Q. Do you remember the question?
 [Page 78]

1 GALLAGHER
 2 A. Can you go ahead with the
 3 question? Sorry.
 4 Q. When you went back to work the
 5 next day, did you have any conversations
 6 about what had happened at Shawangunk?
 7 A. I wanted to forget about it, you
 8 know, because I was still shaken up from it.
 9 Just being locked in the visiting room is a
 10 scary situation. I don't know if you ever
 11 been in prison but it's a scary situation.
 12 MR. SCHULZE: Off the record.
 13 (Discussion off the record.)
 14 MR. SCHULZE: Back on the
 15 record.
 16 Q. Were you instructed not to go back
 17 to Shawangunk on Friday?
 18 A. Yes.
 19 Q. Who told you that?
 20 A. Mike.
 21 Q. When did he tell you that?
 22 A. Thursday night.
 23 Q. Do you know whether he assigned
 24 another driver to go to Shawangunk?
 25 A. What was what?
 [Page 79]

1 GALLAGHER
 2 Q. Do you know whether he assigned
 3 anyone else to go to Shawangunk?
 4 A. They weren't sending anybody.
 5 Q. Did he tell you that?
 6 A. Yes.
 7 Q. After you left the police station,
 8 do you know whether Mr. Freed had any
 9 conversations with the police about the
 10 incident at Shawangunk?
 11 A. I don't know.
 12 Q. Do you know whether anyone at
 13 Rockland had conversations with the New York
 14 State Attorney General's office about the
 15 events of Shawangunk?
 16 A. I don't know.
 17 Q. Did you have any conversations
 18 with the New York Attorney General's office
 19 other than this deposition, of course?
 20 A. No.
 21 Q. Do you know whether anyone at
 22 Rockland made any other complaints about what
 23 happened at Shawangunk?
 24 A. No.
 25 MR. SUSSMAN: Off the record.
 [Page 80]

1 GALLAGHER
 2 (Discussion off the record.)
 3 Q. Have you ever gone back to
 4 Shawangunk Correctional Facility after May 9,
 5 2007?
 6 A. Nope.
 7 Q. Have you had any contact with
 8 anyone from Shawangunk Correctional Facility
 9 after that day?
 10 A. No.
 11 Q. Do you know who Stewart Kidder is?
 12 A. No.
 13 Q. Stewart Kidder?
 14 A. No.
 15 Q. George Glasonos?
 16 A. No.
 17 Q. You don't know Glasonos?
 18 A. No.
 19 Q. Do you know who Marsha Riley is?
 20 A. Who?
 21 Q. Marsha Riley.
 22 A. No.
 23 MR. SCHULZE: Let's go off the
 24 record.
 25 (Discussion off the record.)
 [Page 81]

[21] (Pages 78 to 81)

1 GALLAGHER
 2 MR. SCHULZE: Let me show it to
 3 him. Mark for identification Defendant's
 4 Exhibit F. This is a diagram of the visitors
 5 entrance through to the visiting room of
 6 Shawangunk Correctional Facility.
 7 (Defendant's Exhibit No. F,
 8 diagram, was marked for identification.
 9 Exhibit retained by counsel.)
 10 Q. I want you to take a look at what
 11 has been marked as Defendant's Exhibit F. Is
 12 that a true and accurate representation of
 13 the area from the visitors entrance through
 14 to the visiting room of Shawangunk to your
 15 knowledge?
 16 A. (No response).
 17 MR. SUSSMAN: If you know. Do
 18 you recognize what this is?
 19 THE WITNESS: This is a map.
 20 MR. SUSSMAN: Do you know what
 21 this is a map of?
 22 THE WITNESS: This is supposed
 23 to be the layout of the prison.
 24 Q. Is this the layout of Shawangunk?
 25 A. This is the trailer, yes.

[Page 82]

1 GALLAGHER
 2 Q. Do you see where it says entrance
 3 on the lower right-hand corner?
 4 A. Yes.
 5 Q. Is that where you entered the
 6 facility?
 7 A. Yes, the administration.
 8 Q. Do you see a dotted line with a
 9 square near it where it says entrance?
 10 A. Yes.
 11 Q. Is that the desk where you sign
 12 in?
 13 A. Yes, right here (indicating).
 14 Q. To the left of that desk, do you
 15 see a door?
 16 A. Yes.
 17 Q. Is that door open?
 18 A. Yes.
 19 Q. Does it lead to a hallway?
 20 A. It looks like a hallway.
 21 Q. Is that hallway where you first
 22 talked to Ms. Green?
 23 A. Yes.
 24 Q. If you go down that hallway,
 25 you'll see the indication F 3009 on the map.

[Page 83]

1 GALLAGHER
 2 Do you see that?
 3 A. Yes.
 4 Q. Is that where the first security
 5 door you go through is?
 6 A. Yes.
 7 Q. Then you see an indication F 3010;
 8 is that correct?
 9 A. Yes.
 10 Q. Is that the hallway you walk down
 11 to get to the visitors room?
 12 A. Yes.
 13 Q. Then you see an indication C 1400;
 14 is that correct?
 15 A. Yes.
 16 Q. Is that the general area that
 17 you're in before you go into the visiting
 18 room?
 19 A. Yes.
 20 Q. Then you see an area marked
 21 C 1410; is that correct?
 22 A. Yes.
 23 Q. Is that the visiting room?
 24 A. Yes.
 25 Q. Do you see the indication VM?

[Page 84]

1 GALLAGHER
 2 A. Yes.
 3 Q. Is that where the vending machines
 4 are?
 5 A. Yes.
 6 MR. SUSSMAN: There's two areas
 7 marked VM.
 8 Q. There's vending machines on both
 9 sides of that room; is that correct?
 10 A. Yes.
 11 Q. This is where you were emptying
 12 the machines initially; is that correct?
 13 A. Yes.
 14 Q. Then on the other side of this map
 15 is an area referred to as staff dining. Do
 16 you see that?
 17 A. Yes.
 18 Q. Is that what you have been
 19 referring to as the employee lounge?
 20 A. Yes.
 21 Q. Are there vending machines in that
 22 area also?
 23 A. Yes.
 24 Q. Do you see the room marked B 1353;
 25 is that correct?

[Page 85]

[22] (Pages 82 to 85)

1 GALLAGHER
 2 A. (No response).
 3 Q. Next to staff dining?
 4 A. Yes.
 5 Q. There are two indications of VM;
 6 is that correct?
 7 A. Yes.
 8 Q. Is that where the vending machines
 9 are?
 10 A. Yes.
 11 Q. Then when you exited the facility,
 12 you went back down the hallway marked C3A?
 13 A. Yes.
 14 Q. Out through the security gates,
 15 past the desk and out the entrance; is that
 16 correct.
 17 A. Yes, yes.
 18 MR. SUSSMAN: Do you have
 19 copies or are these your copies?
 20 MR. SCHULTZE: This here is my
 21 copy. One had to be redacted. I can't give
 22 you that one.
 23 MR. SUSSMAN: No problem.
 24 MR. SCHULZE: That's all I got
 25 unless you have something.

[Page 86]

1 GALLAGHER
 2 MR. SUSSMAN: I don't have any
 3 questions for the witness. The record will
 4 note it was federal stips.
 5 MR. SCHULZE: Okay.
 6 MR. SUSSMAN: I will get a copy
 7 so he can read and sign the original.
 8 MR. SCHULZE: Yes.
 9 (TIME NOTED: 11:55 A.M.)
 10 oOo
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 13
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 17
 18
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 21
 22
 23
 24
 25

[Page 87]

1
 2 STATE OF NEW YORK)
 3 ss:
 4 COUNTY OF ROCKLAND)
 5
 6 I, KEN GALLAGHER, the witness herein,
 7 having read the foregoing testimony of the
 8 pages of this deposition, do hereby certify
 9 it to be a true and correct transcript,
 10 subject to the corrections, if any, shown on
 11 the attached page.
 12 oOo
 13
 14
 15
 16 KEN GALLAGHER
 17
 18
 19
 20 Subscribed and sworn to before me
 21 this _____ day of _____, 200__
 22 _____
 23
 24
 25

[Page 88]

1
 2 STATE OF NEW YORK) Pg__of__Pgs
 3 ss:
 4 COUNTY OF ROCKLAND)
 5 I wish to make the following changes, for
 6 the following reasons:
 7 PAGE LINE
 8 _____ CHANGE: _____
 9 REASON: _____
 10 _____ CHANGE: _____
 11 REASON: _____
 12 _____ CHANGE: _____
 13 REASON: _____
 14 _____ CHANGE: _____
 15 REASON: _____
 16 _____ CHANGE: _____
 17 REASON: _____
 18 _____ CHANGE: _____
 19 REASON: _____
 20 _____ CHANGE: _____
 21 REASON: _____
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 25 REASON: _____

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1	1
2 STATE OF NEW YORK)	2 DEFENDANT'S EXHIBIT INDEX
3 ss:	3
4 COUNTY OF ROCKLAND)	4
5 I, IRMA K. NAVARRO, a Shorthand	5 NO: DESCRIPTION: PAGE:
6 Reporter and Notary Public within and for the	6
7 State of New York, do hereby certify:	7 F DIAGRAM 82
8 That the foregoing proceedings	8
9 were taken down by me in shorthand and	9
10 thereafter transcribed under my direction and	10
11 supervision, and that the within transcript	11
12 is a true record of such proceedings.	12
13 I further certify that I am not	13
14 related to any of the parties to this action	14
15 by blood or marriage, and that I am in no way	15
16 interested in the outcome of this matter.	16
17 IN WITNESS WHEREOF, I have	17
18 hereunto set my hand this 12th day of	18
19 November, 2007.	19
20	20
21	21
22 IRMA K. NAVARRO	22
23	23
24	24
25	25
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2 INDEX	
3 KEN GALLAGHER	
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5 PAGE:	
6 EXAMINATION CONDUCTED:	
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8 BY MR. SCHULZE 4	
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